IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
WRIT PETITION NO.7660 OF 2004

Jaysingh Dagadu Kedari Petitioner

Vs.

PMT Machine Tools Automatics Ltd. Respondent

Mr.S.R.Nargolkar for petitioner.

CORAM: B.H.MARLAPALLE,J.
June 30, 2005.

ORAL ORDER:

1. Heard Mr.Nargolkar, the learned counsel for the petitioner-employee who was working as a Driller in the respondent-company. Two charge-sheets were issued against him on 14-4-1991 and 5-6-1991, levelling charges of serious misconduct under the Standing Orders. The departmental enquiry was conducted jointly and the Enquiry Officer submitted his report on 4-8-1991 holding that the charges were proved. He was dismissed from service vide order dated 16-10-1991 and, therefore, he approached the Labour court at Pune in Complaint (ULP) No.245 of 1991 filed under Section 28(i) read with Items 1 (a), (b), (d), (f) and (g) of Schedule IV of the MRTU & PULP Act (for short referred to as "the Act"). The Labour Court answered the preliminary issue vide order dated 15-12-1998 and held that the

enquiry conducted against the petitioner was legal, fair and proper. It proceeded with the complaint on merits. It framed two issues as under:

> "(1) Whether the Complainant proves that the Respondent has engaged in unfair labour practices under Item 1(a), (b), (d), (f) and (g) of Schedule IV of the MRTU & PULP Act while terminating his services w.e.f. 16/10/91?
>
> (2) Whether the Complainant proves that he is entitled to reinstatement with continuity of service and full back wages as prayed for?"

1. Both the above issues came to be answered in the negative and this complaint came to be dismissed vide judgment and order dated 28/6/2000. Being aggrieved by the said view taken by the Labour Court the petitioner approached the Industrial Court in Revision Application (ULP) No.83 of 2001 which came to be dismissed vide judgment and order dated 5th February 2002.

2. The charge-sheets show that the complainant was charged for wilfully slowing down the performance of the work, wilful insubordination or disobedience of the lawful orders of his superior and wilful neglect of work, drunkenness, riotous and indecent

behaviour on the premises of the establishment as well as commission of acts subversive of discipline in the premises. The Labour Court on analysing the evidence agreed with the findings of the Enquiry Officer that the charges levelled against the petitioner were proved. This finding of the Labour Court was not seriously challenged before the Industrial Court and the learned counsel for the complainant argued the case only to the extent of unfair labour practice under clause 1(g) of Schedule IV of the Act. It was argued before the Industrial Court that the Labour Court did not consider the issue of gravity of the charges proved in the proper perspective and, therefore, it was tried to make out a case that the punishment of dismissal was shockingly disproportionate to the charges proved.

3. The learned Member of the Industrial Court noted that the Labour Court had held the acts of misconducts proved against the complainant regarding insubordination, wilful disobedience, riotous and disorderly behaviour and also adopting go slow tactics were serious in nature and they could not be called as minor or technical in character. The Labour Court had also gone through the past service

record of the complainant and noted that he was warned in the past and inspite of opportunities having been provided to him, he failed to show any sign of improvement in his performance as well as behaviour. The Industrial Court in its revisionary powers, therefore, held that there was no case made out to interfere with the order passed by the Labour Court.

4. The concurrent findings recorded by both the Courts below cannot be termed as perverse or erroneous on any count. The learned counsel for the petitioner submitted before me the Enquiry Officer's report along with the enquiry proceedings and the evidence recorded before the Enquiry Officer squarely goes against the petitioner. Hence, there is no case made out to cause interference in the concurrent findings recorded by both the Courts below under the supervisory powers of this Court under Article 227 of the Constitution. The petition is rejected summarily.

(B.H.MARLAPALLE,J.)